REMARKS

In the Office Action mailed October 22, 2007, the Examiner noted that claims 1-13 were pending, and rejected claims 1-13. Claims 1, and 6-13 have been amended and claims 1-13 are pending under consideration. No new matter has been added. The Examiner's rejections are traversed below.

TRAVERSAL OF REJECTIONS UNDER 35 U.S.C. § 101

Claims 9-12 were rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The category of claim 9 is amended to storage medium storing a program. The categories of claims 10-12 are amended to computer system. Therefore, it is respectfully submitted that the rejections are overcome.

TRAVERSAL OF REJECTIONS UNDER 35 U.S.C. § 103

Claims 1-12 were rejected under 35 U.S.C. § 103(a) as unpatentable over Choquier in view of Donaghue. It seems that the Examiner also intended to reject claim 13 with the same ground. Claims 1-9 have been amended to recite "reducing a load on a service server within any of the plurality of groups by using at least one service server with the lightest load within the intermediate server group as the service server within any of the plurality of groups, when the load on the service server within any of the plurality of groups increases, and a quality level to be rendered by any of the plurality of groups cannot be maintained, and the service server of the intermediate server group returns to an original level when the load on the service server within any of the plurality of groups decreases after the increase of the load." Claim 13 has been amended to recite "dynamically transferring a server of the mid-level server group with the lowest load to a group of servers with a highest service level requirement requiring additional throughput while maintaining a minimum throughput to the lower priority applications, and returing the service server of the mid-level server group returns to an original level when the load on the service server within any of groups of servers decreases after the increase of the load."

As seen on page 7 of the Office Action, the Examiner does not depend on Choquier to show "[quality levels of service, and an intermediate group of service servers which offer low level service among the servers at a normal time]". To fill in this missing disclosure the Examiner

uses Donaghue, which "allocates servers among different applications" to process transactions "of different types, or of the same type but with a different service level goal[,]", col. 5, lines 34-36, and according to differing priority levels, col. 8, lines 45-67. However, the service level of the servers in Donaghue are not "intermediate" normally and "low" at the same time because there is no simultaneous, dual functionality. As defined by Donaghue, the servers therein provide either intermediate or low requests at any given time, not both. Thus, the specific teachings relied upon from Donaghue do not teach the use of servers from an intermediate group that normally serve low level requests.

Therefore, it is submitted that claims 1-13 patentably distinguish over Choquier in view of Donaghue.

If there are any formal matters remaining after this response, the Examiner is requested to telephone the undersigned to attend to these matters.

If there are any additional fees associated with filing of this Amendment, please charge the same to our Deposit Account No. 19-3935.

Respectfully submitted,

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